

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

EMMANUEL BADDOO, d/b/a)
Crossland International Market,)
)
 Plaintiff,)
)
 vs.) Case No. 11-0939-CV-W-ODS
)
 UNITED STATES OF AMERICA,)
)
 Defendant.)

ORDER AND OPINION DENYING
PLAINTIFF'S MOTION FOR STAY OF ADMINISTRATIVE ACTION

Plaintiff, who owns and operates Crossland International Market, was permanently disqualified from the Department of Agriculture's Supplemental Nutrition Assistance Program (SNAP) (formerly known as the Food Stamp Program). This disqualification prevents Plaintiff from accepting SNAP benefits in exchange for goods. Plaintiff initiated this action to challenge the Food and Nutrition Service's determination that he was trafficking in SNAP benefits, and filed a motion to stay the disqualification pending judicial review. The Government has responded; Plaintiff has not filed Reply Suggestions in support of his request and the time for doing so has passed. After considering the parties' arguments, the motion (Doc. # 3) is denied.

Plaintiff invokes 7 U.S.C. § 2023(a)(17) as supporting his request for a stay. However, the very next provision makes clear that section 2023(a)(17) does not apply to administrative decisions permanently disqualifying a retailer from the SNAP program, but rather applies only to temporary disqualifications. It provides that “[n]otwithstanding any other provision of this subsection, any permanent disqualification of a retail food store or wholesale food concern under paragraph (3) or (4) of section 2021(b) shall be effective from the date of receipt of the notice of disqualification.” 7 U.S.C. § 2023(a)(18). Implementing regulations confirm this distinction: a temporary disqualification can be stayed, but a permanent disqualification cannot. See 7 C.F.R. §

279.7(d). This is significant because Plaintiff was permanently disqualified pursuant to section 2021(b)(3)(B) – so the provisions for a stay do not apply. See also 7 C.F.R. § 278.6(e)(1). The Court lacks the power to grant a stay, so Plaintiff's request for a stay must be denied.

IT IS SO ORDERED.

DATE: November 2, 2011

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT